

**REPORT OF THE AUDIT OF THE
GRAVES COUNTY
CLERK**

**For The Year Ended
December 31, 2009**



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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE GRAVES COUNTY CLERK

**For The Year Ended
December 31, 2009**

The Auditor of Public Accounts has completed the Graves County Clerk's audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$25,601 from the prior year, resulting in excess fees of \$304,114 as of December 31, 2009. Revenues decreased by \$285,426 from the prior year and expenditures decreased by \$311,027.

Report Comments:

- The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed
- The County Clerk Should Not Alter Public Records In Order To Renew Motor Vehicle Registrations That Have Delinquent Taxes

Deposits:

The County Clerk's deposits were insured and collateralized by bank securities.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Tony Smith, Graves County Judge/Executive
The Honorable Barry M. Kennemore, Graves County Clerk
Members of the Graves County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Graves County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated March 31, 2010 on our consideration of the Graves County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Tony Smith, Graves County Judge/Executive
The Honorable Barry M. Kennemore, Graves County Clerk
Members of the Graves County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed
- The County Clerk Should Not Alter Public Records In Order To Renew Motor Vehicle Registrations That Have Delinquent Taxes

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Graves County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", written in a cursive style.

Crit Luallen
Auditor of Public Accounts

March 31, 2010

GRAVES COUNTY
BARRY M. KENNEMORE, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

State Fees For Services	\$	14,499	
Fiscal Court			37,717
Licenses and Taxes:			
Motor Vehicle-			
Licenses and Transfers	\$	1,373,362	
Usage Tax		2,949,497	
Tangible Personal Property Tax		2,503,539	
Clerk Lien Fees		15,162	
Licenses-			
Fish and Game Licenses		5,005	
Marriage Licenses		7,191	
Occupational Licenses		665	
Spouse Abuse		2,820	
Deed Transfer Tax		63,173	
Delinquent Tax		205,162	7,125,576
Fees Collected for Services:			
Recordings-			
Deeds, Easements, and Contracts		15,194	
Real Estate Mortgages		19,950	
Chattel Mortgages and Financing Statements		90,239	
Powers of Attorney		1,448	
Affordable Housing Trust		45,000	
All Other Recordings		81,510	
Charges for Other Services-			
Copywork		2,562	
Postage		8,754	264,657
Other:			
Miscellaneous			1,774
Interest Earned			2,015
Total Revenues			7,446,238

The accompanying notes are an integral part of this financial statement.

GRAVES COUNTY
 BARRY M. KENNEMORE, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2009
 (Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers \$ 996,745

Usage Tax 2,861,010

Tangible Personal Property Tax 930,912

Licenses, Taxes, and Fees-

Fish and Game Licenses 4,846

Delinquent Tax 30,209

Legal Process Tax 34,080

Affordable Housing Trust 45,000 \$ 4,902,802

Payments to Fiscal Court:

Tangible Personal Property Tax 204,733

Delinquent Tax 32,051

Deed Transfer Tax 60,014

Occupational Licenses 295 297,093

Payments to Other Districts:

Tangible Personal Property Tax 1,263,978

Delinquent Tax 89,479 1,353,457

Payments to Sheriff 3,509

Payments to County Attorney 27,299

Operating Expenditures:

Personnel Services-

Deputies' Salaries 397,835

Employee Benefits-

Employer's Share Medicare 27,902

The accompanying notes are an integral part of this financial statement.

GRAVES COUNTY
 BARRY M. KENNEMORE, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2009
 (Continued)

Expenditures (Continued)

Operating Expenditures: (Continued)

Materials and Supplies-			
Election Expense	\$	268	
Insurance Bonds		3,128	
Office Supplies		4,729	
Miscellaneous		619	
Other Charges-			
Conventions and Travel		9,075	
Dues		1,260	
Postage		9,905	
Refunds		2,935	
Tax Bill Preparation		7,337	
Bad Debt		1,171	
		<u> </u>	\$ 466,164
Total Expenditures			<u>\$ 7,050,324</u>
Net Revenues			395,914
Less: Statutory Maximum			<u>84,672</u>
Excess Fees			311,242
Less: Expense Allowance		3,600	
Training Incentive Benefit		<u>3,528</u>	<u>7,128</u>
Excess Fees Due County for 2009			304,114
Payments to Fiscal Court - February 8, 2010		200,000	
- February 22, 2010		<u>104,114</u>	<u>304,114</u>
Balance Due Fiscal Court at Completion of Audit			<u><u>\$ 0</u></u>

The accompanying notes are an integral part of this financial statement.

GRAVES COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

GRAVES COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Graves County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Graves County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Tony Smith, Graves County Judge/Executive
The Honorable Barry M. Kennemore, Graves County Clerk
Members of the Graves County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Graves County Clerk for the year ended December 31, 2009, and have issued our report thereon dated March 31, 2010. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Graves County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County Clerk's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Graves County Clerk's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations.

- The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed
- The County Clerk Should Not Alter Public Records In Order To Renew Motor Vehicle Registrations That Have Delinquent Taxes

The Graves County Clerk's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the County Clerk's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Graves County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

March 31, 2010

COMMENTS AND RECOMMENDATIONS

GRAVES COUNTY
BARRY M. KENNEMORE, COUNTY CLERK
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2009

STATE LAWS AND REGULATIONS:

The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed

During our audit, it came to our attention the County Clerk did not require all taxpayers to pay their delinquent ad valorem taxes, when issuing/renewing current registrations. KRS 186A.145 states, "A county clerk shall not process an application for Kentucky title and registration from or to any Kentucky resident who has a delinquent motor vehicle ad valorem property tax account." Also, KRS 186.021(1) states, "a county clerk shall not issue a replacement plate, decal, or registration certificate...or a registration for renewal to any person who on January 1 of any year owned a vehicle on which...ad valorem taxes are delinquent." By not collecting the delinquent taxes due, the state, county, school, and other taxing districts could lose potentially hundreds of thousands of tax dollars to which they are entitled. We recommend the County Clerk comply with KRS 186A.145 and KRS 186.021 and ensure no registration is issued or renewed until all delinquent taxes associated with it are paid as required. We are referring this matter to the Office of the Attorney General for further review.

County Clerk's Response: The Graves County Clerk's Office has changed its inherited policy. The Clerk's office is following the recommendations of the Auditor's Office and will continue to cooperate with the Auditor's Office.

The County Clerk Should Not Alter Public Records In Order To Renew Motor Vehicle Registrations That Have Delinquent Taxes

During our audit it came to our attention the County Clerk manipulated/changed the social security numbers on motor vehicle transactions, which had delinquent ad valorem taxes owed, in order to process the transaction without the taxpayer being required to pay the delinquent taxes. By not collecting the delinquent taxes due, the state, county, school, and other taxing districts lose tax dollars they are entitled to receive.

KRS 186A.280 states "No county clerk or other person shall knowingly enter any information or record into a telecommunications terminal or other device connected to the automated vehicle registration and titling system, knowing that the information or record entered into such device is false, fraudulent, illegitimate, or contains erroneous information that: (1) Creates, or enables the system to create, a certificate of title and registration, certificate of registration, or certificate of title, that is illegitimate or that contains information that is false, fraudulent or erroneous."

Also, the County Clerk should never intentionally alter public records in order to override the controls in place, and allow someone with delinquent taxes to renew their registration, without first paying the delinquent taxes owed. KRS 186A.145 states, "A county clerk shall not process an application for Kentucky title and registration from or to any Kentucky resident who has a delinquent motor vehicle ad valorem property tax account." Also, KRS 186.021(1) states, "a county clerk shall not issue a replacement plate, decal, or registration certificate...or a registration for renewal to any person who on January 1 of any year owned a vehicle on which...ad valorem taxes are delinquent."

GRAVES COUNTY
BARRY M. KENNEMORE, COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

The County Clerk Should Not Alter Public Records In Order To Renew Motor Vehicle Registrations That Have Delinquent Taxes
(Continued)

We recommend the County Clerk refrain from altering motor vehicle records in order to override the existing controls and ensure no renewal of registration is completed until all delinquent taxes associated with it are paid as required. We will refer this matter to the Office of the Attorney General for further investigation.

County Clerk's Response: The Graves County Clerk's Office believes that we changed the social security numbers because the numbers were entered incorrectly or because of divorce or in some cases of leased vehicles and liens don't attach to leased vehicles according to the Revenue Cabinet. However, the County Clerk's Office will continue to cooperate with the Auditor's Office.

Auditor's Reply: The Clerk reported to the auditors that he made changes in some instances without investigating circumstances because a party was known to the Clerk and his or her word was taken in lieu of documentation. Because of the illegal nature of changing records, we recommend this practice be stopped.

